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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

DONATO TAA,

Plaintiff and Appellant,

v.

STINSON-PARPIA, INC.,

Defendant and Respondent.

F041823

(Super. Ct. No. 289713)

OPINION

APPEAL from a judgment of the Superior Court of Stanislaus County. Hurl W. Johnson, III, Judge.

Law Firm, Andrew B. Bosque and Andrew B. Bosque for Plaintiff and Appellant.
Ropers, Majeski, Kohn & Bentley and George G. Weickhardt for Defendant and Respondent.

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Plaintiff and appellant Donato Taa appeals from a summary judgment in favor of defendant and respondent Stinson-Parpia, Inc., dba Modesto Toyota. Rule 2(a) of the California Rules of Court provides, in pertinent part, that a notice of appeal must be filed on or before the earliest of: 1) 60 days after the superior court clerk mails the appellant notice of entry of the judgment or a file-stamped copy of the judgment, showing the date either was mailed; 2) 60 days after the appellant is served by a party with notice of entry of the judgment or a file-stamped copy of the judgment, accompanied by proof of

service; or 3) 180 days after entry of judgment. The party's *service* of the notice of entry (not its receipt or its filing with the court clerk) commences the rule 2(a)(2) 60-day appeal deadline. (*Glasser v. Glasser* (1998) 64 Cal.App.4th 1004, 1010-1011; *Casado v. Sedgwick, Detert, Moran & Arnold* (1994) 22 Cal.App.4th 1284, 1286.)

The time for appealing a judgment is jurisdictional. The court has no power to extend the applicable time for appeal, and once the deadline expires, the court has no power to hear the appeal. (*Van Beurden Ins. Services, Inc. v. Customized Worldwide Weather Ins. Agency, Inc.* (1997) 15 Cal.4th 51, 56; *Hollister Convalescent Hosp., Inc. v. Rico* (1975) 15 Cal.3d 660, 666-667 [if it appears appeal was not taken within applicable period, court must dismiss appeal on its own motion].)

Under rule 2(a)(2), which applies in this case, appellant's notice of appeal had to be filed on or before October 29, 2002, which is 60 days after respondent served him with the document entitled Notice of Entry of Order re Motion for Summary Judgment and Entry of Judgment, accompanied by proof of service dated August 30, 2002. Because appellant's notice of appeal was not filed until November 4, 2002, the court lacks jurisdiction to hear the appeal.

DISPOSITION

The appeal is dismissed. Costs are awarded to respondent.

Wiseman, J.

WE CONCUR:

Buckley, Acting P.J.

Levy, J.